

III. Remarks

Applicant would initially like to thank Examiner Wells and Examiner Padmanabhan for the courtesies extended to Applicant's representative during the personal interview of April 28, 2003. Applicant further thanks the Examiners for indicating during the interview that the finality of the outstanding Action will be withdrawn.

Reconsideration of the subject application is respectfully requested in view of the preceding amendments and for the following reasons.

Claims 1-53 are presently pending and new claims 54-61 are added by the subject Amendment. Of those claims, claims 1-9, 27-30 and 34-35 are presently withdrawn as being subject to a restriction requirement/election of species. The remaining claims, claim 10-26, 31-33 and 36-53 are rejected in the outstanding Official Action.

In particular, in the outstanding Official Action, the Patent Office rejects claims 1-26, 31-33 and 36-53 under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter "which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention." (Action, page 2). In particular, the Patent Office alleges that the specification does not appear to provide a written description of a consistency of the compositions so that the compositions are not rinsed off of the skin." (Action, page 2). The Patent Office also alleges that the specification does not appear to provide a written description that the compositions are not removed from the skin." (Action, page 3). Applicant traverses

these rejections and again respectfully directs the Examiner's attention to the descriptions in the specification at, for example, page 11, paragraph 3.

Also, as discussed during the afore-referenced interview and as indicated on the Interview Summary Report, Applicant understands that the present Examiner will withdraw these rejections. Accordingly, such favorable action is respectfully requested.

The Patent Office then rejects claims 10-26, 31-33 and 36-53 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention (Action, page 3). In particular, the Patent Office alleges that the "claims are vague and indefinite because it is unclear what applicant intends to be a flowable liquid consistency." Although Applicant respectfully disagrees with the Patent Office's position, in the interest of advancing the prosecution of the pending claims, the words "flowable liquid consistency" have been deleted from the claims. Applicant respectfully submits that this rejection has been rendered moot and should therefore be withdrawn.

The Patent Office also rejects claims 16-21, 24-26, 31-33, 36, and 46 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,720,949 to Davis ("Davis"). Similarly, claims 10-22, 24-26, 31-33, 36, 37, 39, 40 and 43-46 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Davis. Claim 23 also is rejected under 35 U.S.C. § 103(a) as being unpatentable over Davis in view of U.S. Patent No. 4,797,273 to Linn et al. ("Linn") and Database REGISTRY on STN for polysorbate-20 ("Registry"). Lastly, claims 38, 41 and 42 are rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Davis and further in view of

U.S. Patent No. 5,242,433 to Smith et al. ("Smith"). Applicant respectfully traverses the foregoing rejections and asserts that the afore-cited references, whether viewed alone or in combination, neither disclose nor suggest Applicant's claimed invention. For example, in contrast to the presently claimed invention and as described in Applicant's prior response, the disclosed viscosities of Davis warrant removal from the skin. Applicant's presently claimed compositions are not scraped off the skin and need not be to function and achieve the benefits of the present invention.

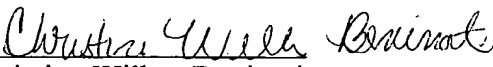
Additionally, as discussed during the afore-referenced personal interview and as indicated on the Interview Summary Report, Applicant understands that the present Examiner will withdraw the § 102 and §103 rejections. Accordingly, such favorable action is respectfully requested.

In view of the amendments and remarks set forth herein, the application is believed to be in condition for immediate allowance and such favorable action is earnestly solicited.

Should the Examiner have any questions regarding the subject application, a call to the undersigned at 203-925-9400 (Ext. 17) would be sincerely appreciated.

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Respectfully submitted,


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